

IN THE CIRCUIT COURT OF

KANAWHA

COUNTY, WEST VIRGINIA

CIVIL CASE INFORMATION STATEMENT
(Civil Cases Other than Domestic Relations)

I. CASE STYLE:

Plaintiff(s)

Cathy Moss

Case No. 17-C-181

Judge: Webster

KATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

2017 FEB -6 AM 11:10

83
FILED

vs.

Defendant(s)

State Farm Bank

Name

One State Farm Plaza E-6

Street Address

Bloomington, IL 61710

City, State, Zip Code

Days to
Answer

30

Type of Service

Secretary of State

II. TYPE OF CASE:

<input checked="" type="checkbox"/> General Civil	<input type="checkbox"/> Adoption
<input type="checkbox"/> Mass Litigation <i>[As defined in T.C.R. 26.04(a)]</i>	<input type="checkbox"/> Administrative Agency Appeal
<input type="checkbox"/> Asbestos	<input type="checkbox"/> Civil Appeal from Magistrate Court
<input type="checkbox"/> FELA Asbestos	<input type="checkbox"/> Miscellaneous Civil Petition
<input type="checkbox"/> Other:	<input type="checkbox"/> Mental Hygiene
<input type="checkbox"/> Habeas Corpus/Other Extraordinary Writ	<input type="checkbox"/> Guardianship
<input type="checkbox"/> Other:	<input type="checkbox"/> Medical Malpractice

III. JURY DEMAND: Yes No CASE WILL BE READY FOR TRIAL BY (Month/Year): /

IV. DO YOU OR ANY
OF YOUR CLIENTS
OR WITNESSES
IN THIS CASE
REQUIRE SPECIAL
ACCOMMODATIONS?

 Yes No

IF YES, PLEASE SPECIFY:

<input type="checkbox"/> Wheelchair accessible hearing room and other facilities
<input type="checkbox"/> Reader or other auxiliary aid for the visually impaired
<input type="checkbox"/> Interpreter or other auxiliary aid for the deaf and hard of hearing
<input type="checkbox"/> Spokesperson or other auxiliary aid for the speech impaired
<input type="checkbox"/> Foreign language interpreter-specify language: _____
<input type="checkbox"/> Other: _____

Attorney Name: Daniel Armstrong

Firm: Klein & Sheridan, LC

Address: 3566 Teays Valley Rd., Hurricane, WV 25526

Telephone: (304) 562-7111

Representing:

<input checked="" type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
<input type="checkbox"/> Cross-Defendant	<input type="checkbox"/> Cross-Complainant
<input type="checkbox"/> 3rd-Party Plaintiff	<input type="checkbox"/> 3rd-Party Defendant

 Proceeding Without an Attorney

Original and 3 copies of complaint enclosed/attached.

Dated: 2/20/17

Signature: *[Signature]*

PYMT Typc
Rcpt # 547921 \$200 ✓ \$135
Iss. Sum. + 3cc No Sum. Iss
Ret. to Atty. \$20cm X
Mailed CM/RM 25 clk X
Mailed to sos w/ck# 10175
Sent to _____ w/ck# _____

SCA-C-100: Civil Case Information Statement (Other than Domestic Relations)

Plaintiff: Cathy Moss , et al Case Number: _____
vs.
Defendant: State Farm Bank , et al

**CIVIL CASE INFORMATION STATEMENT
DEFENDANT(S) CONTINUATION PAGE**

Defendant's Name _____

Days to Answer: _____

Street Address _____

Type of Service: _____

City, State, Zip Code _____

Defendant's Name _____

Days to Answer: _____

Street Address _____

Type of Service: _____

City, State, Zip Code _____

Defendant's Name _____

Days to Answer: _____

Street Address _____

Type of Service: _____

City, State, Zip Code _____

Defendant's Name _____

Days to Answer: _____

Street Address _____

Type of Service: _____

City, State, Zip Code _____

Defendant's Name _____

Days to Answer: _____

Street Address _____

Type of Service: _____

City, State, Zip Code _____

Defendant's Name _____

Days to Answer: _____

Street Address _____

Type of Service: _____

City, State, Zip Code _____

Defendant's Name _____

Days to Answer: _____

Street Address _____

Type of Service: _____

City, State, Zip Code _____

N THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

CATHY MOSS

Plaintiff,

2017 FEB -6 AM 11:10

**CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT**

vs.

STATE FARM BANK

Defendant.

Case No. 17-C-181

Webster

COMPLAINT AND DEMAND FOR JURY TRIAL

1. The Plaintiff, CATHY MOSS, is a resident of Kanawha County, West Virginia.
2. The Plaintiff is a person who falls under the protection of Article 2 of the West Virginia Consumer Credit and Protection Act (herein "WVCCPA") and is entitled to the remedies set forth in Article 5 of the WVCCPA.
3. The Defendant, STATE FARM BANK, is a corporation having its principal offices in a state other than West Virginia and which does business in West Virginia.
4. The Defendant is a debt collector as defined by *West Virginia Code* § 46A-2-122(d) engaging directly or indirectly in debt collection as defined by *West Virginia Code* § 46A-2-122(c) within the State of West Virginia, including KANAWHA County, West Virginia.
5. After the Plaintiff became in arrears upon the alleged indebtedness to the Defendant, upon Plaintiff's account with State Farm Bank, the Defendant began to engage in collection of such indebtedness through the use of telephone calls placed to Plaintiff, by written communications and did otherwise communicate with Plaintiff to collect the alleged debt.
6. The Plaintiff retained the undersigned counsel to represent Plaintiff's interest in connection with consumer indebtedness on which Plaintiff had become in arrears.

7. Thereafter, the Plaintiff mailed a letter to the Defendant advising the Defendant of the Plaintiff's retention of an attorney and providing the Defendant with the name, address, and telephone number of the Plaintiff's attorney attached hereto as Exhibit A.
8. Thereafter, Defendant continued to cause telephone calls to be placed to the Plaintiff.
9. The Defendant maintains records of each call placed to the Plaintiff by date, time called, duration of call, the identity of the Defendant's employee and notes or codes placed upon such record by the Defendant's employee.
10. Such records will reflect that the Defendant placed telephone calls to the Plaintiff's residential telephone number after it appeared that Plaintiff was represented by an attorney and the attorney's name and telephone number were known or could be reasonably ascertained.

COUNT I

VIOLATIONS OF THE WEST VIRGINIA CONSUMER CREDIT AND PROTECTION ACT

11. The Plaintiff incorporates the previous paragraphs as if fully set forth herein.
12. The Defendant has engaged in repeated violations of Article 2 of the *West Virginia Consumer Credit and Protection Act*, including but not limited to,
 - a. engaging in unreasonable or oppressive or abusive conduct towards the Plaintiff in connection with the attempt to collect a debt by placing telephone calls to the Plaintiff after the Plaintiff has requested the Defendant stop calling the Plaintiff in violation of *West Virginia Code* § 46A-2-125;

- b. causing Plaintiff's phone to ring or engaging persons, including the Plaintiff, in telephone conversations repeatedly or continuously or at unusual times or at times known to be inconvenient, with the intent to annoy, abuse or oppress the Plaintiff in violation of *West Virginia Code* § 46A-2-125(d);
- c. using unfair or unconscionable means to collect a debt from Plaintiff in violation of *West Virginia Code* § 46A-2-128(e) by communication with Plaintiff after it appeared that an attorney represented the Plaintiff;
- d. failing to clearly disclose the name of the business entity making a demand for money upon Plaintiff's indebtedness in violation of *West Virginia Code* § 46A-2-127(a) and (c).

13. As a result of the Defendant's actions, Plaintiff has been annoyed, inconvenienced, harassed, bothered, upset, angered, harangued and otherwise was caused indignation and distress.

COUNT II

VIOLATION OF THE WEST VIRGINIA COMPUTER CRIMES AND ABUSE ACT

- 14. The Plaintiff incorporates the previous paragraphs as if fully set forth herein.
- 15. The Plaintiff is a "persons" as defined by *West Virginia Code* § 61-3C-3(n) as Plaintiff is a "natural person."
- 16. The Defendant, State Farm Bank, is a "person" as defined by *West Virginia Code* § 61-3C-3(n) as Defendant is a "limited partnership, trust association or corporation."

17. The Defendant, with the intent to harass, used an “electronic communication device” as defined by West Virginia Code § 61-3C-14a to make contact with the Plaintiff after being requested by Plaintiff to desist from contacting the Plaintiff in violation of *West Virginia Code* § 61-3C-14a(a)(2).
18. The Defendant’s actions violated *West Virginia Consumer Credit and Protection Act* Chapter 46A as described in Count I above and therefore violate this statute as well.
19. The Plaintiff was injured as a result of the violations of the *West Virginia Computer Crimes and Abuse Act* as set forth above.
20. Plaintiff seeks compensatory damages for injuries provided by *West Virginia Code* § 61-3C-16(a)(1) and punitive damages pursuant to *West Virginia Code* § 61-3C-16(a)(2).
21. As a result of the Defendant’s actions, Plaintiff has been annoyed, inconvenienced, harassed, bothered, upset, angered, harangued and otherwise caused indignation and distress.

COUNT III

VIOLATION OF TELEPHONE HARASSMENT STATUTE

22. The Plaintiff incorporates the previous paragraphs as if fully set forth herein.
23. The Defendant made or caused to be made telephone calls to the Plaintiff causing Plaintiff’s telephone(s) to ring repeatedly and continuously with the intent to annoy and harass the Plaintiff in violation of *West Virginia Code* § 61-8-16(a)(3).
24. The Defendant’s actions violated *West Virginia Consumer Credit and Protection Act* Chapter 46A as described in Count I above and therefore violate this statute as well.

25. The Plaintiff was injured by Defendant's violation of *West Virginia Code § 61-8-16(a)(3)*. As Plaintiff was injured by Defendant's violation of *West Virginia Code § 61-8-16(a)(3)*, the Plaintiff have a civil cause of action for damages Plaintiff sustained by reason of said statutory violation pursuant to West Virginia Code §55-7-9 which so provides.

26. As a result of the Defendant's actions, Plaintiff has been annoyed, inconvenienced, harassed, bothered, upset, angered, harangued and otherwise caused indignation and distress.

COUNT IV

COMMON LAW NEGLIGENCE

27. The Plaintiff incorporates the previous paragraphs as if fully set forth herein.

28. Defendant negligently failed to train, supervise, monitor or otherwise control its employees to ensure that its employees did not violate the WVCCPA as alleged in Count I.

29. As a result of the Defendant's actions, Plaintiff has been annoyed, inconvenienced, harassed, bothered, upset, angered, harangued and otherwise was caused indignation and distress.

COUNT V

INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS

30. The Plaintiff incorporates the previous paragraphs as if fully set forth herein.

31. The following conduct of Defendant was atrocious, intolerable and extreme so as to exceed the bounds of decency:

- a. Defendant placed telephone calls to Plaintiff after Defendant knew that Plaintiff was represented by an attorney in gross violation of the WVCCPA;
- b. Defendant has adopted policies and procedures without regard to West Virginia law, which violate West Virginia law and are designed to, or have the effect of, inflicting emotional distress upon consumers to coerce the consumer to pay money to the Defendant;
- c. Insofar as Defendant's violations of the WVCCPA are deemed to be "willful," pursuant to *West Virginia Code* § 46A-5-103(4) such conduct is, as a matter of law, criminal conduct punishable by fine and/or imprisonment;
- d. Insofar as Defendant's conduct caused a phone to ring with the intent to harass, such conduct is criminal conduct pursuant to *West Virginia Code* § 61-8-16(a)(3) punishable by fine and/or imprisonment;
- e. Insofar as Defendant's conduct of engaging in telephone conversation with Plaintiff undertaken with the intent to harass, such conduct is criminal conduct proscribed by *West Virginia Code* § 61-8-16(a)(4) punishable by fine and/or imprisonment;
- f. Insofar as Defendant's conduct constituted knowingly allowing a phone under Defendant's control to be used to harass any person, such conduct is criminal conduct proscribed by *West Virginia Code* § 61-8-16(b) punishable by fine and/or imprisonment.

32. As a result of the Defendant's actions, the Plaintiff has suffered emotional distress.

33. As a result of the Defendant's actions, the Plaintiff has been annoyed, inconvenienced, harassed, bothered, upset, angered, harangued and otherwise was caused indignation and distress.

COUNT V

COMMON LAW INVASION OF PRIVACY

34. The Plaintiff incorporates the previous paragraphs as if fully set forth herein.
35. The Plaintiff has, and have, an expectation of privacy to be free from harassing and annoying telephone calls within the confines of Plaintiff's home.
36. The acts of the Defendant in placing telephone calls to Plaintiff's home telephone number invaded, damaged and harmed Plaintiff's right of privacy.
37. As a result of the Defendant's actions, the Plaintiff suffered emotional distress.
38. As a result of the Defendant's action, the Plaintiff has been annoyed, inconvenienced, harassed, bothered, upset, angered, harangued and otherwise was caused indignation and distress.

DEMAND FOR RELIEF

Plaintiff demands from the Defendant:

- a. Actual damages for the violations of the WVCCPA as authorized by *West Virginia Code § 46A-5-101(1)* for all such violations that occurred up to the date and time of the filing of this complaint;
- b. Statutory damages in the maximum amount authorized by *West Virginia Code § 46A-5-101(1)* as adjusted for inflation pursuant to *West Virginia Code § 46A-5-106* for all such violations that occurred up to the date and time of the filing of this complaint;
- c. Plaintiffs cost of litigation, including attorney fees, court costs and fees, pursuant to *West Virginia Code § 46A-5-104*;
- d. The Plaintiffs be awarded general damages for the Defendant's negligence as alleged in

Count II of the Complaint;

- e. The Plaintiffs be granted general damages and punitive damages for Defendant's conduct alleged in Count II, III, IV, and V;
- f. Such other relief as the Court shall deem just and proper under the attendant circumstances.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES SO TRIABLE

CATHY MOSS

BY COUNSEL

BY:



Benjamin Sheridan (# 11296)
Daniel K. Armstrong (#11520)
Counsel for Plaintiff
Klein & Sheridan, LC
3566 Teays Valley Road
Hurricane, WV 25526
(304) 562-7111
Fax: (304) 562-7115

6-28-16

Cathy Moss

Charleston, W.V 25387

State Farm Bank

One State Farm Plaza E-6

work Bloomington, IL 61710

Dear Sir and Madam:

My name is Cathy Moss

I have retained Ben Sheridan
at Klein & Sheridan, LC,
at 3566 Teays Valley Road
in Hurricane, WV 25524
as my attorney for all my
accounts with your Corporation.

The phone Number at
Klein & Sheridan, LC is
(304) 562-7111. Please stop
calling me or don't call me
and direct all call to
MR. Sheridan

Yours

Cathy Moss Exhibit A



Cathy Moss
Charleston, WV, 25387

State Farm Bank
One State Farm Plaza E-6
Bloomington, IL, 61710

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

CATHY MOSS

Plaintiff,

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CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

vs.

STATE FARM BANK

Defendant.

2017 FEB -6 AM 11:10
Case No. 17-C-181

Webster

**NOTICE OF VIDEO DEPOSITION OF DEFENDANT'S CORPORATE
REPRESENTATIVE**

PLEASE TAKE NOTICE that pursuant to Rule 30 of the West Virginia Rules of Civil Procedure, CATHY MOSS, will take the video deposition of Defendant's corporate representative by telephone at the Defendant's corporate headquarters on a date and time to be agreed upon.

This deposition will be taken upon oral examination before an officer authorized to administer the appropriate oath, and will continue from day to day until completed. This deposition will be received by video, sound and stenographic means and will be used for all purposes authorized by law.

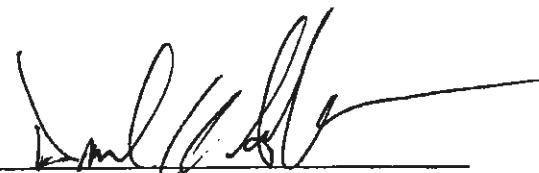
The corporate representative will testify to:

- Defendant's, policies and procedures on collections in West Virginia during the four years prior to the filing of this civil action;
- training of collections staff for debt collection in West Virginia during the four years prior to the filing of this civil action;
- debt collection techniques and systems, including computer systems used for debt collection in West Virginia used in the four years prior to the filing of this civil action;

- compliance with West Virginia and national debt collection laws as they were used in West Virginia debt collection in the four years prior to the filing of this civil action;
- knowledge of past litigation in West Virginia over the four years prior to the filing of this civil action involving debt collection abuse allegations; and
- the facts and substance of the case as they relate to the Defendant and as they are articulated in the complaint.

Cathy Moss
By Counsel

BY:



Daniel K. Armstrong (#11520)
Benjamin Sheridan (#11296)
Counsel for Plaintiff
Klein & Sheridan, LC
3566 Teays Valley Road
Hurricane, WV 25526
(304) 562-7111

IN THE CIRCUIT COURT OF ~~KANAWHA~~ COUNTY, WEST VIRGINIA

CATHY MOSS

2017 FEB -6 AM 11:10

Plaintiff,

CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

vs.

STATE FARM BANK,

Case No. 17-C-181

Webster

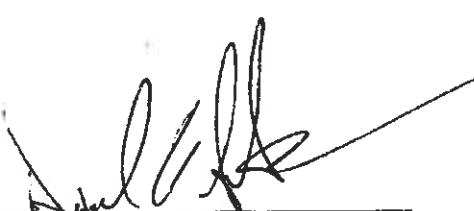
Defendant.

CERTIFICATE OF SERVICE

I, Daniel Armstrong, attorney for the Plaintiff, certify that I served a true copy of the foregoing **Complaint and Demand for Jury Trial, Summons, Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant and Notice of Video Deposition of Defendant's Corporate Representative** on the Defendant via the West Virginia Secretary of State as agent for service of process of an out-of-state corporation, at the Defendant's address below on this 1 day of January, 2017.

February 1

State Farm Bank
One State Farm Plaza E-6
Bloomington, IL 61710

BY: 
Daniel Armstrong (#11520)
Benjamin Sheridan (#11296)
Counsel for Plaintiff
Klein & Sheridan, LC
3566 Teays Valley Road
Hurricane, WV 25526
(304) 562-7111

A TRUE COPY

TESTE: *Cathy S. Gatson* CLERK
CIRCUIT COURT KANAWHA COUNTY, W.VA.
3-217 *B. McDonald*



Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305

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2017 FEB 10 PM 12:11

CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
888-767-8683
Visit us online:
www.wvsoe.com

Cathy Gatson
Kanawha County Courthouse
111 Court Street
Charleston, WV 25301-2500

Control Number: 156457

Defendant: STATE FARM BANK
ONE STATE FARM PLAZA E-6
BLOOMINGTON, IL 61710 US

County: Kanawha

Civil Action: 17-C-181

Certified Number: 92148901125134100001759719

Service Date: 2/7/2017

I am enclosing:

1 notice, 1 interrogatories, 1 request for production, 1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

Mac Warner

4-5

Mac Warner
Secretary of State

A TRUE COPY

TESTED *Cathy S. Gaison* CLERK
CIRCUIT COURT KANAWHA COUNTY, W.VA.
3-217 01-0006

FILED

2017 FEB 21 AM 10:58

CATHY S. GAISON, CLERK
KANAWHA COUNTY CIRCUIT COURT

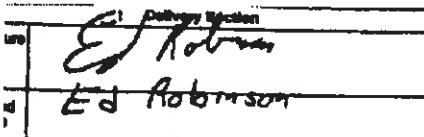


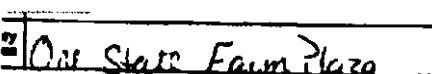
Civil Action Number 17-C-181
Package Identification Code 92148901125134100001759719
Signature Downloaded 2/20/2017 6:08:55 AM
Defendant Name STATE FARM BANK

Date Produced: 02/20/2017

WEST VIRGINIA SECRETARY OF STATE:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 1251 3410 0001 7597 19. Our records indicate that this item was delivered on 02/13/2017 at 05:29 a.m. in BLOOMINGTON, IL 61710. The scanned image of the recipient information is provided below.

Signature of Recipient : 

Address of Recipient : 

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Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 175971

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